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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------------|---------------------|------------------|
| 10/775,671 | 02/10/2004 | Krzysztof Matula | LHUD-03701-US | 1133 |
| 33794 7590 07/15/2008 MATTHIAS SCHOLL 14781 MEMORIAL DRIVE SUITE 1319 HOUSTON, TX 77079 | | | | |
| EXAMINER VU, TUAN A | | | | |
| ART UNIT 2193 | | PAPER NUMBER | | |
| NOTIFICATION DATE 07/15/2008 | | DELIVERY MODE ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTORECEIPT@GMAIL.COM
IPRECEIPT@GMAIL.COM

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/775,671

Applicant(s)

MATULA ET AL.

Examiner

Tuan A. Vu

Art Unit

2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached *Information Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Tuan A Vu/
Primary Examiner, Art Unit 2193

Continuation of 3. NOTE: The proposed claim amendment requires further consideration and cannot be entered lest it complicate effects of an Appeal. The exhibits or Appendices A, C regarding using PRM files to declare certain variables appear to teach a programmatic language declaration that is totally absent in the present Application as it was originally filed, therefore cannot be construed as inherent teaching that would enable one to understand this unfounded 'declared as ROM' phraseology of the Disclosure. Regarding the non-tangible communication medium (re claim 14, claim 7 being a typo) to support the method of claim 7, the medium cannot preclude it from being merely signal being transferred, hence not a STORING medium, hence not a statutory product. Regarding the argument that compression is different from hash of the MD5 type. EuroLoader has clearly mentioned about decompressing the downloaded file and checking these files using a CRC verification. A CRC is not a full size as the original data but merely a special format accompanying the transferred content to represent its previous integral state in its original uncompressed form, and it requires at the receiving end a CRC recomputing (by a algorithm) and a comparing in order to validate the true content of said uncompressed form, i.e. the checksum signifies compressing the data prior to the data being transferred and the validating of the compressed and downloaded data in Euroloader has to use this CRC to check on its true original nature. The claim does not provide sufficient details (e.g. what algorithm is being applied?) to enforce a significant scenario that would otherwise unequivocally preclude the decompression using CRC or integrity checking by Euroloader from fulfilling this decompressing limitation. The 'declared' ROM remains a impropriety to be corrected, and the argument using this 'declared' limitation would be given no real patentable weight, in view of the above remarks. The claims are not in condition for allowance nor are the proposed changes entered to prevent complicating potential effects of an Appeal.